

Thomas-Jensen Affirmation

Exhibit # 87

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

STATE OF NEW YORK; et al.,

Plaintiffs,

v.

DONALD TRUMP, in his official capacity as
President of the United States; et al.,

Defendants.

C.A. No. 1:25-cv-00039-JJM-PAS

DECLARATION OF EMILY KALTENBACH

I, EMILY KALTENBACH, declare as follows:

1. I am a resident of the State of New Mexico. I am over the age of 18 and have personal knowledge of all the facts stated herein, except to those matters stated upon information and belief; as to those matters, I believe them to be true. If called as a witness, I could and would testify competently to the matters set forth below.
2. I am currently employed by the State of New Mexico as the Cabinet Secretary Designate for the New Mexico Aging and Long-Term Services Department (ALTSD).
3. ALTSD is an executive state agency that is composed of several different divisions that assist New Mexicans with achieving lifelong independence and healthy aging, as well as offering support and services to adults with disabilities and caregivers. The Adult Protective Services Division, The Consumer and Elder Rights Division, The Aging Network Services Division, the Long-Term Care Division and the Administrative Services Division are statutorily created divisions within ALTSD pursuant to NMSA 1978 Section 9-23-9. The Adult Protective Services Division is statutorily responsible for providing adult protective services.

The Consumer and Elder Rights Division is statutorily responsible for administering the long-term care ombudsman program and provide health insurance and benefits counseling and legal services. The Aging Network Services Division is statutorily tasked with administering the federal Older Americans Act programs. As the Cabinet Secretary Designate for ALTSD I am responsible for the operation and management of ALTSD, including but not limited to the development and oversight of budget, programmatic performance as well as enforcement, and compliance with all statutory obligations.

4. As ALTSD Cabinet Secretary Designate, I am responsible for the creation, oversight and implementation of the ALTSD budget, which includes both federal and state funding.
5. ALTSD receives or anticipates receiving the following federal funding:
 - a. Administration for Community Living: Title III B - Supportive Services,
\$6,365,987.00
 - b. Administration for Community Living: Title III C1 - Congregate Meals,
\$8,558,550.00
 - c. Administration for Community Living: Title III C2 - Home Delivered Meals,
\$5,841,665.00
 - d. Administration for Community Living: Title III D - Preventive Health, \$413,351.00
 - e. Administration for Community Living: Title III E - Family Caregiver, \$3,157,964.00
 - f. Administration for Community Living: ARPA Title III B - Supportive Services,
\$2,975,288.00
 - g. Administration for Community Living: ARPA Title III C1 - Congregate Meals,
\$1,939,055.00

- h. Administration for Community Living: ARPA Title III C2 - Home Delivered Meals, \$2,908,011.00
- i. Administration for Community Living: ARPA Title III D - Preventive Health, \$283,317.00
- j. Administration for Community Living: ARPA Title III E – National Family Caregiver Support, \$945,631.00
- k. Administration for Community Living: ARPA - Adult Protective Services, \$1,899,154.00
- l. Administration for Community Living: ARPA - Ombudsman, \$64,390.00
- m. Administration for Community Living: ARPA ALF – Ombudsman, \$117,106.00
- n. Administration for Community Living: Elder Justice Act (EJAP), \$218,193.00
- o. Administration for Community Living: Lifespan Respite, \$1,048,500.00
- p. Administration for Community Living: Nutrition Service Incentive Program (NSIP), \$1,967,179.00
- q. Administration for Community Living: Title VII Elder Abuse, \$11,907.00
- r. Administration for Community Living: Title VII Ombudsman, \$63,652.00
- s. Administration for Community Living: Expanding the Public Health Workforce within the Aging Network, \$314,439.00
- t. Administration for Community Living: State Health Insurance Assistance Program (SHIP), \$840,769.09
- u. Administration for Community Living: SHIP Public Healthcare Workforce, \$116,757.00
- v. Administration for Community Living: MIPPA SHIP, \$459,167.00

- w. Administration for Community Living: MIPPA AAA, \$446,450.00
- x. Administration for Community Living: MIPPA ADRC, \$134,565.00
- y. Administration for Community Living: Senior Medicare Patrol (SMP), \$384,123.00
- z. Corporation for National and Community Service: AmeriCorps VISTA, \$50,000.00
- aa. Department of Labor: Title V, \$447,809.00

7. ALTSD anticipates receiving the following federal funding ant (reference section 11.)

- Administration for Community Living: Title III B - Supportive Services,
\$2,004,336.00
- Administration for Community Living: Title III C1 - Congregate Meals,
\$2,728,119.00
- Administration for Community Living: Title III C2 - Home Delivered Meals,
\$1,874,342.00
- Administration for Community Living: Title III D - Preventive Health, \$130,562.00
- Administration for Community Living: Title III E – National Family Caregiver
Support, \$1,003,687.00
- Administration for Community Living: Nutrition Service Incentive Program (NSIP),
\$1,282,209.00
- Administration for Community Living: Title VII Elder Abuse, \$20,512.00
- Administration for Community Living: Title VII Ombudsman, \$108,325.00

8. Below are descriptions, including purposes, of the federal funding received by ALTSD, and the number of individuals served:

a. Title III B – Supportive Services

ALTSD contracts with the City of Albuquerque/Bernalillo County Area Agencies and Non-Metro New Mexico Area Agency on Aging (AAA). The Contractor and sub-

contractors fulfill the mandates of the Older Americans Act of 1965, as reauthorized by the Supporting Older Americans Act of 2020. Supportive Services offered by the AAAs include Access Services, Case Management, Transportation, Housekeeping/Homemaker Services, Chore, Legal Assistance, and Adult Day Care. In FFY24, at total of 43,771 NM older adults accessed Title IIIB services.

b. Title III C1 – Congregate Meals

Title-III C1 Congregate Meals programs provide healthy meals served in group settings at senior centers and other congregate meal sites, which aim to keep older adults healthy and independent. In FFY24, a total of 28,932 NM older adults accessed Title IIIC-1 services at senior centers.

c. Title III C2 – Home Delivered Meals

Title-III C2 Home Delivered meal programs provide nutritious meals to older adults who are not able to attend congregate meal sites. For those who are unable to consume meals at the congregate site, delivery of these meals by nutrition staff and volunteers provides an opportunity to see a friendly face. In FFY24, a total of 11,600 NM older adults accessed Title IIIC-2 services.

d. Title III D – Preventive Health

Title-IIID Preventive Health, which is also known as the Health Promotion program, helps older adults maintain healthy lifestyles and prevent diseases. The program's goal is to reduce the need for costly medical interventions by helping older adults adopt healthy behaviors. Health promotion and disease prevention services include weight loss, smoking cessation, and stress management. The program is for older adults aged 60 and older. In NM SFY24, a total of 649 NM older adults accessed Title IIID services.

e. Title III E – National Family Caregiver Support

Title-IIIE National Family Caregiver Support program provides systems of support services to family caregivers and grandparents or older individuals, 55 years of age or older, who are relative caregivers of children not more than 18 years old or individuals with disabilities. Allowable services include training/support, counseling (Gerontological and Mental Health), outreach, and assistance with referrals to social services. The Grandparents and Non-Parent Relative Support Service includes caregiver training/support, child day care, and counseling. In FFY24, a total of 1,141 NM older adults accessed Title IIIE services.

f. ARPA Title III B, C1, C2, D, and E

The American Rescue Plan Act of 2021 (ARPA) is critical for bolstering and expanding the New Mexico Adult Protective Services (APS) systems, thereby addressing the core infrastructure and services gaps. Strengthening APS systems through increased staffing (3 contract employees), training (allowing staff to attend APS related conferences and trainings), and resources (which includes: heaters, blankets, and portable fans for cold and hot months and other necessities like clothing, hygiene, and incontinence supplies for Adult Protective Services clients). These services and resources are essential for investigating abuse, neglect, and exploitation and ensuring safety and wellbeing to New Mexico's vulnerable adult population. Equally critical is the expansion of services ARPA supports within APS, such as emergency shelter and food insecurity initiatives offered throughout APS' five service regions. It is anticipated that this funding will serve approximately 1,100 individuals across the state.

g. American Rescue Plan (ARP) Ombudsman

The American Rescue Plan for New Mexico State Long-Term Care Ombudsman Programs (LTCOP) funds enhance capacity to respond to and resolve complaints about abuse and neglect, especially in board and care facilities and similar adult care homes, including assisted living facilities (ALF) as required by the Older Americans Act. These funds assist the LTCOP to serve and advocate for individuals based on the 13,307 Long Term Care Facility licensed beds that are home to the state's most vulnerable residents. The Older Americans Act funds allows Ombudsman professionals to: identify, investigate, and resolve complaints made by or on behalf of residents; provide information to residents about Long Term Services and Supports (LTSS); ensure that residents have regular and timely access to ombudsman services; represent the interests of residents before governmental agencies and seek administrative, legal, and other remedies to protect residents; and analyze, comment on, and recommend changes in laws and regulations pertaining to the health, safety, welfare, and rights of residents. In 2024, the LTCOP program advocated for or provided information to over 4,707 long term care residents or their families. Without this continued funding, New Mexico's long term care residents would no longer have advocacy support, potentially at risk of mistreatment, fraud, or abuse in long-term care settings.

h. Long-Term Care Ombudsman ARP Assisted Living Facilities

In addition to supporting long-term care facility resident advocacy efforts, funding is necessary to educate the public on resident rights, through collaboration with providers, caregivers, residents, community advocates, and other state agencies, to

provide program descriptions related to defining resident rights, and to share contact information and other details to support safe, healthy, dignified living conditions.

i. Elder Justice Act (EJAP)

The Elder Justice Act (EJA) grant provides critical funding to Adult Protective Services, which strengthens its capacity to protect vulnerable adults. This funding is critically important as it enhances APS functions by staffing a Clinical Operations Team responsible for addressing behavioral health issues during APS investigations, providing APS training opportunities, and enhancing APS data collection systems. The EJA grant further enables NMAPS to effectively respond to allegations of elder abuse, neglect, or exploitation (ANE) and develop internal prevention training through the APS CORE program. Finally, the EJA grant allows APS to address quality assurance challenges, which allows APS to ensure adaptability and responsiveness to the evolving needs of vulnerable adults. Through the EJA 19 clinical clients have been served, 187 quality assurances have been completed, 32 clinical staffings have been completed and 197 substantiation cases have been reviewed.

j. Lifespan Respite

The Lifespan Respite Grant funds a state-wide respite care system that provides respite care services to individuals and their families who are living with dementia and Alzheimer's disease, and adults and children with disabilities or special needs. Currently, ALTSD contracts with the Memory Care Alliance to implement Communities of Care Programs (i.e., Caregiver Day, Caregiver Workshops, Care Groups), and Respite Vouchers for eligible. A total of 233 individuals were served in five counties (Santa Fe, San Miguel, Los Alamos, San Juan, Rio Arriba) in NM SFY24, and 213 individuals were served in three counties (Dona Ana, San Miguel, Rio Arriba, and Santa Fe) in NM SFY25.

k. Nutrition Services Incentive Program (NSIP)

NSIP- The Nutrition Services Incentive Program (NSIP) is a grant program that provides incentives to states, territories, and eligible tribal organizations to support the Older Americans Act (OAA) nutrition programs to serve more meals to seniors through the OAA congregate and home delivered meals program. A total of 41,673 NM older adults accessed 3,476,392 meals in FFY24.

l. Title VII – Ombudsman

The Long-Term Care Ombudsman receives Title VII funds to prevent elder abuse, neglect and exploitation in long-term care facilities. These funds support the Ombudsman's work of resolving problems related to the health, safety, welfare, and rights of individuals in long-term care facilities. The funding supports the Ombudsman's efforts to grow the Ombudsman program, provide information to residents about the Ombudsman, and ensure that long-term care residents have regular and timely access to ombudsman services.

m. Title V

SCSEP- The Senior Community Senior Employment Program grant supports 29 low-income older adult participants by providing participants with subsidized training assignments throughout New Mexico.

n. AmeriCorps VISTA

AmeriCorps VISTA is a national service program where individuals dedicate a year of full-time service to help local organizations address poverty by building their capacity through activities like fundraising, grant writing, and volunteer recruitment, with a focus on areas such as education, public health, and access to benefits. ALTSD's Office of Indian Elder Affairs AmeriCorps VISTA Project is conducting an analysis of barriers faced by Tribes, Nations and Pueblos when providing and accessing services.

o. State Health Insurance Assistance Program (SHIP).

The NM State Health Insurance Assistance Program (SHIP) provides free, unbiased Medicare information, counseling, and assistance to New Mexico's older residents and adults with disabilities. In NM SFY 2024, SHIP staff conducted 342 events attended by 26,717 people. In NM SFY 2025 so far (7/1/2024 – 1/31/2025), 322 events have reached 20,389 people. During this time period 4,261 individuals received one-on-one counseling for their Medicare choices. They are nationally certified and assist people in choosing among their Medicare options to ensure the most effective benefits for their situation. In addition, they connect people with resources and benefits to lower their medical costs and help them remain in the community. Five staff members are paid by these grant funds and would lose their employment if funding is not available.

p. SHIP Public Healthcare Workforce.

The SHIP Public Healthcare Workforce provides personnel to increase access to healthcare information, improving health outcomes for older New Mexicans and adults with disabilities. Without these staff, people in New Mexico have reduced access to resources, information, and benefits. Proposals to immediately invest these funds are currently underway.

q. Medicare Improvements for Patients and Providers (MIPPA) – SHIP

MIPPA outreach is conducted by all SHIP, SMP, and Aging and Disability Resource Center (ADRC) staff. Those who call the ADRC are screened for low-income programs to help make Medicare more affordable. People who need assistance with applications are referred to SHIP for follow-up. Media campaigns to educate and connect New Mexicans with the SHIP program include a quarterly direct mail “New to Medicare” postcard, social media, commercials, and more. In NM SFY 24, 297 events were attended and 24,242 people provided information about low-income programs. In NM SFY 2025 so far (7/1/2024 – 1/31/2025), 255 events have reached 16,997 people. During Medicare Fall Open Enrollment 10/15/2024 to 12/7/2024, SHIP Coordinators held over 108 events, which were attended by 3,164 people. At the events, SHIP Coordinator provided one-on-one counseling on their Medicare options to over 1,287 New Mexicans in all 33 counties. Without the media outreach to inform people of the program, access to information, benefits, and resources will be reduced.

r. MIPPA Area Agency on Aging (AAA)

SHIP Coordinators partner with senior centers administered by the NM Area Agency on Aging (AAA) in communities throughout the state to provide in-person education, counseling, and assistance with Medicare options and connecting with resources for low-income individuals. The work supports approximately 240 senior centers, including 60 among the Tribes, Pueblos, and Nations in New Mexico. Older people in New Mexico, particularly low-income, rural, and Native Americans, will no longer have access to this in-person support and connection with resources if funding is not available.

s. MIPPA Aging and Disability Resource Center (ADRC)

MIPPA outreach is conducted by all SHIP, SMP, and Aging and Disability Resource Center (ADRC) staff. From October 1 through December 31, 2024, the ADRC received 11,062 calls from across the State, an increase of 925 calls from the previous quarter. Those who call the ADRC are screened for low-income programs to help make Medicare more affordable. This has a direct impact on quality of life for New

Mexico's most vulnerable residents and would have a detrimental effect on the older adults and adults with disabilities in the state if funding was lost.

t. Senior Medicare Patrol (SMP)

Senior Medicare Patrol educates people about Medicare fraud, errors, and abuse, investigates cases of potential fraud, and reports to the Office of the Inspector General (OIG) and/or Centers for Medicare and Medicaid (CMS). This program protects New Mexico's older adults and adults with disabilities. 273 educational events were held in NM SFY24, attended by 18,541 people. In NM SFY24 SMP opened 78 cases and sent 16 to the OIG for potential cost savings of nearly \$35,000. In NM SFY 2025 so far (7/1/2024 – 1/31/2025), 197 events have reached 17,562 people. In NM SFY25 to date, 49 cases have been opened, with 7 being reported to the OIG. The elimination of this program would remove a very important source of protection, support, and assistance with Medicare fraud issues for New Mexico's most vulnerable residents. Three staff members are paid out of this grant and would lose their employment if funding is interrupted. Any pause in our federal funding would put eight staff positions in jeopardy. Loss of these personnel would bring in-person assistance and education about Medicare, cost-saving programs, resources to improve New Mexicans' quality of life, Medicare fraud protection, and other benefits to a halt. This would cause a statewide negative impact on the quality of life for older adults and adults with disabilities, particularly in rural and tribal areas.

9. ALTSD budget for this year has relied on Administration for Community Living funding and Department of Labor funding. ALTSD has made plans and allocated funding for staffing and direct services to seniors based on the anticipated receipt of Federal funding.

- a. Title IIIB \$1,943,433.00 has been allocated and contracted for NM SFY25
- b. Title IIIC-1 \$3,343,173.64 has been allocated and contracted for NM SFY25
- c. Title IIIC-2 \$2,194,487.45 has been allocated and contracted for NM SFY25
- d. Title IIID \$233,896.30 has been allocated and contracted for NM SFY25
- e. Title IIIE \$1,502,265.60 has been allocated and contracted for NM SFY25
- f. NSIP \$2,251,743.00 has been allocated and contracted for NM SFY25
- g. SCSEP \$499,760.00 has been allocated and contracted for NM SFY25
- h. Lifespan Respite Grant - \$449,500.00 has been allocated for NM SFY25

i. EJA -\$106,818 has been allocated for NM SFY25, and NM FY26:111,375

j. AmeriCorps VISTA -\$50,0000 has been allocated for NM SFY25

10. Any pause in ALTSD federal funding would result in the below harm to vulnerable adults across the state of New Mexico:

- a. Lifespan Respite Grant – Respite services are an essential component of home and community-based long-term services, and respite services can contribute to healthier families and well-being of caregivers and care recipients. A pause will result in the cancellation of a statewide respite care system and ALTSD’s ability to administer vital services to individuals living with dementia or Alzheimer’s disease, and adults and children of all ages with disabilities. The respite program also supports the caregivers for these individuals, without this program caregivers will lose out in the support they need to avoid the potential burnout.
- b. ARPA/EJA: A funding pause would create significant challenges by potentially disrupting services to APS clients, hindering programmatic intervention to vulnerable adults, and undermining the protection APS provides to New Mexico residents. APS would be forced to scale back planned projects like the food insecurity project and the Clinical Operation Team. APS would also be forced to cancel many of its initiatives to end Elder Abuse, Neglect, or Exploitation because those initiatives rely on EJA funding. This would force APS to focus its resources on assisting adults that have already become victims, rather than proactively intervening to assist vulnerable adults.
- c. OAA Title III services- a funding pause would require the AAAs to greatly reduce the direct transportation, nutrition, chores, caregiver respite, legal

assistance, and homemaker services provided by the AAAs. The Older Americans Act requires the AAAs to identify older individuals with the greatest economic or social needs and prioritize the provision of these services to those older individuals. Without Title III OAA funds, the AAAs will not be able to provide essential support to those older New Mexicans who need these services the most. For example, transportation to much needed medical appointments would be reduced, which will likely result in poor health outcomes older individuals. Older individuals in the greatest economic or social need rely heavily on nutrition and meal services, which may be the only source for nutrition for older individuals living in poverty. The cancellation of congregate meals would also remove the only opportunity many older individuals to be in communities with other people, and there is a health benefit to being in community with others for older individuals. Many older individuals rely on home chores and caregiver services to provide them with the ability to live independently. Without these services, older individuals may be forced to seek a long-term care residence, which is a very costly alternative to living at home. Finally, legal assistance services provide older individuals with advocates who can help those older individuals with the greatest economic or social need navigate legal systems to avoid guardianship or eviction, for example. Without Title III funding, many of these services would be scaled back or would have to be cancelled altogether.

- d. AmeriCorps VISTA – a funding pause will create significant disruption of services which are helping to identify barriers that Native American populations

face when accessing services. Further, it would likely cause a disruption in services at Tribal Senior Centers and Adult Day Care Centers.

- e. ADRC/SHIP/MIPPA/SMP- currently these programs receive hundreds of calls for information about benefits and related issues. A pause in funding could be cataphoric for members of the public when trying to access meaningful and reliable information about health benefits. Further, a pause in funding would likely create more opportunities for individuals to fall victim to various health benefit scams and exploitation. Additionally, a pause in funding would have a direct impact on quality of life for New Mexico's most vulnerable residents as it would create an information gap on a very complex and important health issue.
 - f. Long-Term Care Ombudsman-a pause in funding would likely cause an increase of abuse, neglect and exploitation in long-term care settings as it may decrease the number and availability of Long-Term Care Ombudsman within long-term care settings. Further, a pause in funding may create further isolation and may reduce advocacy opportunities for those living in long-term care settings.
11. Uncertainty around federal reimbursement has caused the following chilling effect on service provisions:
- Service providers have expressed confusion and uncertainty around federal reimbursement, which has caused the consideration of potential staff layoffs, immediate cessation of services, and risk the loss of capital, to include senior facilities.
12. In the next 8 months, ALTSD is scheduled to receive disbursements of \$9,152,092.00 under our current federal grants.

13. If ALTSD does not receive such disbursements, it will cause the following harm: A loss in future disbursements will likely cause layoffs in all ALTSD divisions. A loss of Title III funding will result in ALTSD not being able to provide funds to the AAAs. This would result in the AAAs being unable to fund their contracts with supportive service providers, which would force service providers to terminate services including meal, respite, congregate care and services for some of the most vulnerable populations within New Mexico. While there would be the immediate negative impacts to the older individuals that rely on these services, there would also be the longer-term impact of service providers needing to potentially close their businesses. If funding is restored, the AAAs would then have to reestablish connections with support service providers, which is time-consuming work. Further, APS may no longer be able to provide preventative services to APS clients and will be required to use all resources for clients who have already been a victim of abuse, neglect, and exploitation. Adult Protective Services would also lack the resources to comprehensively respond to and investigate allegations of elder abuse, neglect, and exploitation. With a lack of funding to support APS, the program will be unable to identify vulnerable adults that are not easily identified by community partners and have fallen through the cracks, hidden from public view. Additionally, the Long-Term Care Ombudsman will not have the resources it needs to provide information and advocacy to residents in long-term care facilities to ensure resident rights and quality of care.
14. ALTSD has received the following transmissions related to the pause or impediments for disbursements:
- ALTSD has received correspondence from ACL: Notifying the NAMRS reporting system being temporarily offline and data submission being paused. ALTSD has

received correspondence from NAPSA: Regarding an Open Forum meeting to discuss APS funding from a federal perspective.

- The AmeriCorps VISTA: ALTSD's Office of Indian Elder Affairs received correspondence "A Message from the AmeriCorps Interim Agency Head" on January 29 at 3:32pm MST, which indicated that all current awards will be reviewed to ensure alignment with administration priorities and executive orders.
- ALTSD has received information from ACL and grant solutions as it relates to the pause in funding.

15. ALTSD has not identified any practical impediments to disbursement.

16. Further delays regarding communication over disbursements and federal funding creates uncertainty, chaos and concern among service providers but also among vulnerable adults who rely on important services such as home delivered meals. A lack of clear direction and understanding as it relates to federal funds may cause service providers to cut invaluable services and staff who provide those services. Further, there may be contractual obligations which were created based upon the reliance upon future federal funding and a further pause or lack of clear communication may cause contractual liability for service providers.

17. ALTSD did not experience access interruption post-TRO on January 31 and/or post-TRO notice on 2/2/25

18. ALTSD continues to be concerned that the funding will again be delayed or denied because there has been an insufficient amount of clear communication from federal entities regarding disbursements.

19. If the federal funding is again paused, blocked, denied or delayed suddenly, a loss of funding may cause cessation or interruption in social services including meals, respite care,

transportation, access to health care and other intricate important services to older adults and adults living with disabilities. Further, there may be an increase in abuse, neglect and exploitation of vulnerable adults and adults with disabilities as individuals may no longer have access to vital services that help prevent, reduce and educate individuals about abuse, neglect and exploitation.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 4, 2025, at Santa Fe, New Mexico



Emily Kaltenbach
Cabinet Secretary Designate
The New Mexico Aging and Long-Term Services
Department